

IN THE UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,

Plaintiff,

v.

FRANCISCO MARQUEZ,

Defendant.

CR. NO. S-03-0153 EJG
CIV. NO. S-09-2628 EJG

ORDER DIRECTING UNITED STATES
TO FILE A RESPONSE

Defendant was convicted August 11, 2003 pursuant to his plea of guilty to one count of health care fraud in violation of 18 U.S.C. § 1347. He was sentenced to four years probation, and ordered to pay restitution in the amount of \$734,000. As part of his plea agreement defendant waived his rights to appeal and collateral attack of his conviction and sentence. Now, six years following imposition of sentence, defendant brings the instant petition for writ of coram nobis seeking to amend the judgment to reduce the amount of restitution.

The United States is directed to file a response to the petition within 30 days from the filing date of this order.

1 Defendant may file a reply within 30 days after the filing of the
2 government's response. As part of their written responses the
3 parties are directed to address the following issues: 1) the
4 amount of restitution paid; 2) the effect of defendant's waiver of
5 collateral review on the instant petition; and 3) defendant's
6 failure to object during the change of plea proceeding to the
7 court's admonition concerning the possibility of removal as a
8 consequence of his guilty plea. The matter will stand submitted
9 upon receipt of the defendant's reply brief.

10 IT IS SO ORDERED.

11 Dated: September 21, 2009

12 /s/ Edward J. Garcia
13 EDWARD J. GARCIA, JUDGE
14 UNITED STATES DISTRICT COURT
15
16
17
18
19
20
21
22
23
24
25
26